

Application No. 10/591,559
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Reply to the Office Action dated October 1, 2009
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AMENDMENTS TO THE DRAWINGS:

The attached sheets of Drawings include changes to Figs. 1-3, 5, 18-20, and 23.

Attachment: Eight (8) Replacement Sheets.

REMARKS/ARGUMENTS

Claims 13-24 are pending in this application. By this Amendment, Applicant AMENDS the title of the invention, claims 13-23, the specification, and the drawings; and ADDS claim 24.

Support for new claim 24 can be found in, for example, paragraphs [0096] and [0097] of Applicant's specification and Figs. 8, 12, and 13 of Applicant's drawings.

The Examiner is reminded that in an Information Disclosure Statement filed on July 25, 2007, Applicant cited copending U.S. Patent Application Nos. 11/514,387; 11/514,386; 11/514,000; 11/513,609; 11/514,017; 11/513,537; 11/469,268; 11/469,310; 11/469,228; 11/469,252; 10/591,285; 10/591,560; and 10/591,284 to bring to the attention of the Examiner and have the Examiner consider the subject matter and claims of the copending U.S. Patent Application(s), the prior art references, Office Actions and responses to Office Actions made of record in the copending U.S. Patent Application(s). The Examiner is respectfully requested to update his/her review and consideration of the claims of the copending U.S. Patent Application(s), the prior art references, Office Actions and responses to Office Actions made of record in the copending U.S. Patent Application(s).

Applicant appreciates the Examiner's indication that claims 14, 17-20, and 23 would be allowable if amended to overcome the 35 U.S.C. § 112, second paragraph, rejection, to include all of the features of the base claim and any intervening claims, and upon the receipt of a properly filed Terminal Disclaimer.

The drawings were objected to for failing to show reference characters 16a, 16b as described in paragraph [0068] of Applicant's specification, and failing to identify the subfigures in Figs. 1-3, 5, 18-21, and 23 by a capital letter. Applicant has amended Fig. 5B to show the openings 16a and 16b and amended Figs. 1-3, 5, 18-20, and 23 to designate the subfigures by a capital letter. Applicant has not amended Fig. 21 because it does not contain subfigures. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to the drawings.

Applicant has attached hereto a Substitute Specification in order to refer to the subfigures by a capital letter. Applicant's undersigned representative hereby declares and states that the Substitute Specification filed concurrently herewith does not add any new matter whatsoever to the above-identified patent application. Accordingly, entry and consideration of the Substitute Specification are respectfully requested.

Claims 13-23 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicant has deleted the first recitation of "a shift actuator" in claim 13, line 5 as being a duplicate of the second recitation thereof in claim 13, line 7, and amended each of claims 13-23 to delete the words "-type" and "-like". Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 13-23 under 35 U.S.C. § 112, second paragraph.

Claims 13-16, 19, and 21-23 were provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1, 2, 4, and 10-13 of co-pending U.S. Application No. 10/591,284.

In the accompanying Terminal Disclaimer, Applicant has disclaimed the terminal portion of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer filed prior to the grant of commonly owned U.S. Application No. 10/591,284.

Claims 13, 15, 16, 21, and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by Tischer (US 5,878,622).

Applicant respectfully traverses the rejections of claims 13, 15, 16, 21, and 22.

Claim 13 has been amended to recite:

A vehicle comprising:
an engine case containing at least a portion of an engine;
a speed-changing transmission selectively driven by the engine, the speed changing transmission including a shift shaft and a dog; and
a shift control device arranged to perform shift control of the speed-changing transmission, the shift control device including a shift actuator and an actuation force transmission mechanism, the shift actuator being configured to be stroked by a predetermined amount to move the shift shaft and the dog into and out of engagement,

the actuation force transmission mechanism being disposed outside the engine case and being interposed between the shift actuator and the shift shaft, and the actuation force mechanism including:

first and second coupling parts being sized and configured to be coupled together to provide movement relative to each other;

a biasing mechanism arranged to urge the first and second coupling parts toward a neutral position; and

a stopper mechanism arranged to stop the relative movement of the first and second coupling part when one of the first and second coupling parts is moved relatively from the neutral position against urging force of the biasing mechanism and contacts the stopper mechanism. (emphasis added)

With the unique combination and arrangement of features recited in Applicant's claim 13, including the feature of "a stopper mechanism arranged to stop the relative movement of the first and second coupling part when one of the first and second coupling parts is moved relatively from the neutral position against urging force of the biasing mechanism and contacts the stopper mechanism," Applicant has been able to provide a shift control device that allows smooth gear shift changes (see, for example, paragraphs [0010] and [0011] of Applicant's specification).

The Examiner alleged that Tischer teaches an actuation force transmission mechanism including first 6 and second 13, 14 coupling parts, a biasing mechanism 63, 64 for urging the coupling parts to a neutral position, and a stopper mechanism (edge from where bolts 13, 14 protrude) for stopping movement of the coupling parts.

Although Applicant respectfully disagrees with the Examiner's interpretation of the stopper mechanism of Tischer for the reasons set forth below, Applicant has amended claim 13 for clarification purposes to recite the feature of "a stopper mechanism arranged to stop the relative movement of the first and second coupling part when one of the first and second coupling parts is moved relatively from the neutral position against urging force of the biasing mechanism and contacts the stopper mechanism." Support for this feature is found, for example, in paragraph [0097] of Applicant's specification and Applicant's previously presented claim 14.

In contrast, Tischer teaches that the transmission lever 6 (which the Examiner

alleged corresponds to the first coupling part recited in Applicant's claim 13) is positioned according to the gates G_I , G_{II} , G_{III} , and G_{IV} , as clearly shown in Figs. 8 and 9 and described in column 10, lines 8-29 and column 11, lines 10-27 of Tischer. Thus, the transmission lever 6 of Tischer is not capable of being stopped by the edge from where bolts 13, 14 protrude as alleged by the Examiner, and certainly the transmission lever 6 of Tischer never contacts the edge from where bolts 13, 14 protrude. Note, in particular, that the downward extension lines of gates G_I , G_{II} , G_{III} , and G_{IV} in Figs. 8 and 9 of Tischer, and thus the transmission lever 6 positioned within these gates, do not contact the edge from where bolts 13, 14 protrude. Applicant notes that the gates G_I , G_{II} , G_{III} , and G_{IV} of Tischer cannot be considered to be a stopper mechanism as the gates do not form any part of the actuation force transmission mechanism, as recited in Applicant's claim 13.

Thus, Tischer clearly fails to teach or suggest the feature of "a stopper mechanism arranged to stop the relative movement of the first and second coupling part when one of the first and second coupling parts is moved relatively from the neutral position against urging force of the biasing mechanism and contacts the stopper mechanism," as recited in Applicant's claim 13.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 13 under 35 U.S.C. § 102(b) as being anticipated by Tischer.

With respect to Applicant's new claim 24, Tischer fails to teach or suggest that the bolts 13, 14 are operatively connected to the alleged shift 9 of Tischer.

In view of the foregoing amendments and remarks, Applicant respectfully submits that claim 13 is allowable. Claims 14-24 depend upon claim 13, and are therefore allowable for at least the reasons that claim 13 is allowable.

In view of the foregoing amendments and remarks, Applicant respectfully submits that this application is in condition for allowance. Favorable consideration and prompt allowance are solicited.

To the extent necessary, Applicant petitions the Commissioner for a ONE-month extension of time, extending to February 1, 2010, the period for response to the Office

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Action dated October 1, 2009.

The Commissioner is authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1353.

Respectfully submitted,

Dated: January 29, 2010

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